

SYNOPSIS OF METHOD CAREY ACT PROCEDURE

Few people, not directly interested in Carey act reclamation projects, have any definite knowledge of the meaning, application and purposes of the acts of congress, and the statutory procedure which has developed among the several western states, commonly referred to as "The Carey Act." Carey act projects are now common in all the arid-land states and there is constant demand for information as to the workings of the system.

It is not the purpose of this article to attempt any complete analysis thereof, but merely to present such general features of the workings of the system as will answer the demand for information of the casual inquirer. Those who desire to go deeper into the subject will find the study of the laws and regulations contained in this story sufficient and complete, with respect to the state of Nevada. The Nevada act, approved March 17, 1911, is believed to be the best now in force in any western state, embodying the best features of the laws of Idaho, Colorado, Montana, Wyoming and Utah, with additional provisions tending to limit the opportunities for mismanagement and fraud.

Congress, in 1894, passed an act granting to each of the arid land states one million acres of desert lands, situate within each state, subject to the state's selection from any of the unappropriated public domain. There were certain conditions and requirements attached to the original grant and these have been modified to some extent by the subsequent acts of congress and also interpreted by the regulations of the department of the interior. These laws and regulations define the government's part in the procedure, and every detail of which must be complied with.

But in carrying out the government requirements, the states have had to pass laws to comply with the same and to afford a statutory procedure which the applicant for Carey act lands must needs follow in order to fulfill the government requirements, as well as to afford the states the benefits which congress intended should accrue to them. States which have exhausted the first million acres granted have in certain instances been granted one or more additional million acres. Nevada received a second million-acre grant by the act of congress approved March 4, 1911.

The benefits derived by the state from the operations of the law are two-fold. First, it is entitled to fix a selling price upon the lands to actual settlers in tracts not exceeding 160 acres to each entryman, and place the proceeds in a trust fund for the "reclamation of other desert lands in such state;" and, second, the benefits direct and indirect derived from the reclamation and colonization of its wastes.

It will surprise many to learn that no land is acquired by any person, company or corporation conducting a Carey act project, unless (if a natural person) he should become an entryman, and in which case 160 acres would be the maximum acreage he might acquire. The Carey act projects are, per se, reclamation projects, undertaken to supply water for the irrigation of a given tract of land, and when completed the person, company or corporation conducting the same derives his or its profits from the sale of the water rights to settler on lands. An application for a temporary withdrawal of lands means that the applicant proposes to be withdrawn from public entry, and desires time to make the necessary surveys, maps, plats, determinations and specifications to comply with the government requirements. The object of the temporary withdrawal is to protect the applicant from interference by persons attempting to acquire lands within the project other than through the procedure established for Carey act projects.

The applicant, either previously to, or simultaneously with, his application to the commission for a temporary withdrawal, must file with the state engineer an application for a water right commensurate to the acreage, and its approval by the state engineer is a necessary condition of the granting of the application. The effect of the temporary withdrawal is simply to withdraw the lands for one year from entry under any of the public land laws.

Within the year the applicant must complete the surveys, maps, plats, determinations and specifications to comply with the government requirements. The object of the temporary withdrawal is to protect the applicant from interference by persons attempting to acquire lands within the project other than through the procedure established for Carey act projects.

plats, determinations and specifications of his proposed system of reclamation, and which are then filed with the commission, and the whole project passed upon. If approved, the state register of lands under the Carey act is directed to file a request on the part of the state, in the United States land office, for a segregation of the lands embraced in such approved application. Certain fees and expenses are required to be paid by the applicant during the course of such proceedings.

In due time the secretary of the interior will approve or reject the application for the segregation. If approved, the commission is notified, and within three months thereafter he must appear before the commission and execute a contract covering the construction of the proposed reclamation works, and including in the contract the terms and price at which water rights will be sold to settlers. Such works must be completed within three years after the date of the contract, unless there are substantial reasons for the granting of additional time. The contracting applicant or his assigns must furnish a bond in an amount equal to five per cent of the estimated cost of the works, conditioned for the faithful performance of the contract. Work must be commenced on the irrigation system within three months from the date of the contract and prosecuted with reasonable diligence until its completion. At least one-tenth of the construction work must be completed within the first year. Forfeiture is provided for by law.

When the irrigation system is prepared to deliver water to settlers, the lands are thrown open for entry in allotments of not exceeding 160 acres to each entryman. Entrymen must be citizens of the United States, over the age of 21 years (including married and unmarried women), who have not previously exhausted their rights under the provisions of the act. The entryman pays the state by installments for the land and pays the reclamation company likewise for the water right. On completing payment to the state, patent is issued for the land, and on completing payments for the water right the settler acquires full title to the same. Once the project is initiated, the cost of the water right attaches as a lien upon the land and the lien is not lifted until the final payment for the water right.

The lien of the cost of the water right upon the land serves to complete the security of the contractor for the construction of the irrigation works and the profits expected from the enterprise. When the lands are finally sold and the payments for the water rights completed, the contracting company is eliminated from the enterprise and the settler is in possession.

The purpose for which such authority, franchise, and right-of-way is desired is to transport ores from the ore bins of the West End Consolidated Mining company, or from its dumps on the West End Mine Reserve in the vicinity of Oddie avenue and South street, to the said Midway mill, in order that the ores mined in the said mining properties of the West End Consolidated Mining company's ground may be milled at what is known as the Midway mill in the said Tonopah Mining District.

By the said Board of County Commissioners of Nye county, aforesaid, the County Commissioners' room at the Nye County Courthouse, at Tonopah, Nye county, Nevada, and May 13th, 1911, at 10 o'clock in the forenoon thereof, was on the 8th day of April, 1911, designated as the place and time when the aforesaid application of the West End Consolidated Mining company, a corporation, shall be heard. All persons interested in granting or refusing to grant such authority, franchise and right-of-way shall have a right to be heard, either in person or by attorney, at the aforesaid hearing of the aforesaid application before said Board of County Commissioners of Nye county, state of Nevada.

WEST END CONSOLIDATED MINING COMPANY,
By S. H. BRADY,
Superintendent.
4-8-30t

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TEACH BOY A TRADE.

P. M. Greer of Scranton, Pa., in the Engineering and Mining Journal of New York, writes of the young men who start in the mines and then abandon them to study law, medicine or dentistry—professions which, he says, are already overcrowded and where most of these young men make a scanty living. He has touched on something that seems elsewhere and everywhere in the United States. Most parents skimp and save and work early and late to educate their children to be ashamed of them and their ways.

How often you have heard a fond foolish father say that he did not intend to have his boy work as hard as he had; that he was going to give him a good schooling, so he could make a living without hard work.

The curse of the whole thing lies in the idea that he instills into the boy's mind that hard work is not respectable.

Well he sends his boy to college and he graduates in due time, but all he knows is found in books and the practical things he must turn to and learn after he comes from college. But he does not know that he is full to the muzzle of impractical information and now comes the struggle for existence. If he has graduated in law, he cannot draw up a complaint and get the other man in court till somebody shows him how. If he is a doctor—but that is rather dangerous ground for

NOTICE!

NOTICE IS HEREBY GIVEN, That under and by virtue of "An act to empower the County Commissioners of the several counties of the state of Nevada to grant a right-of-way for the construction of telephone, telegraph and electric power lines, underground pipe lines, street car lines and other railway lines across and along the public roads and highways of the state of Nevada, and matters relating thereto," Laws of the state of Nevada, approved March 29, 1907, the West End Consolidated Mining company, a corporation, did on April 8, 1911, make application to the Board of County Commissioners of Nye county, state of Nevada, for the authority and franchise to construct and operate, and for a right-of-way for such construction and operation of a railway line within the confines of the township of Tonopah, Nye county, Nevada, said railway line to be supplied with either gasoline, steam, electric or other motive power.

The said right-of-way desired is ten feet in width and commences at the point of intersection of the center line of South street, as projected on its present course with the east side line of Oddie avenue, thence along the center line of said South street, continued to its intersection with the center line of Oddie avenue, thence along the center line of Oddie avenue northerly to the intersection of the center line of Oddie avenue with the center line of Water street, thence along the center line of Water street on its course toward the Midway mine plant, to a point of intersection of said center line of Water street, projected on its course with the boundary line of the Midway Mining company's ground, where said railway line on the public highway will stop, but which railway line will continue on to what is known as the Midway mill.

The purpose for which such authority, franchise, and right-of-way is desired is to transport ores from the ore bins of the West End Consolidated Mining company, or from its dumps on the West End Mine Reserve in the vicinity of Oddie avenue and South street, to the said Midway mill, in order that the ores mined in the said mining properties of the West End Consolidated Mining company's ground may be milled at what is known as the Midway mill in the said Tonopah Mining District.

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WEST END CONSOLIDATED MINING COMPANY,
By S. H. BRADY,
Superintendent.
4-8-30t

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